



# Indiana Department of Environmental Management

*We Protect Hoosiers and Our Environment.*

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • [www.idem.IN.gov](http://www.idem.IN.gov)

Eric J. Holcomb  
Governor

Bruno L. Pigott  
Commissioner

**JUN 28 2017**

VIA CERTIFIED MAIL: 7004 1160 0004 6517 9887

VIA CERTIFIED MAIL: 7004 1160 0004 6517 9894

Ryan Drook, President & CEO  
Central Indiana Ethanol, LLC  
2955 West Delphi Pike  
Marion, Indiana 46952

Steve Berry  
2955 Delphi Pike  
Marion, Indiana 46952

Re: Notice of Violation and Proposed Agreed Order  
Central Indiana Ethanol, LLC  
053-00062  
Marion, Grant County  
Case No. 2016-23655-A

**Qualified offer of settlement: inadmissible pursuant to Rule 408 of the Ind. Rules of Evidence. IDEM asserts that any offer to compromise a claim or any acceptance of such offer does not bind or obligate the parties of this enforcement action in the absence of a final order of the agency.**

Dear Mr. Drook:

This is to advise that the Indiana Department of Environmental Management (IDEM) has conducted an investigation of Central Indiana Ethanol, LLC located at 2955 West Delphi Pike, Marion, Indiana. As a result of information obtained during that investigation, IDEM has made a preliminary determination that a violation of air pollution rules or permits exists. Pursuant to IC 13-30-3-3, enclosed please find a Notice of Violation that sets forth the alleged violations, and a proposed Agreed Order which constitutes a qualified offer of settlement.

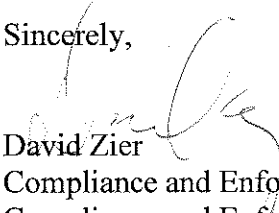
You may request a settlement conference to discuss the allegations and the actions necessary to correct and resolve the violations, which may include injunctive relief and the establishment of a compliance schedule. Payment of a civil penalty will also be discussed. The civil penalty amount noted in the proposed Agreed Order contains a preliminary penalty figure for settlement discussion purposes only and is based on penalty calculations associated with the alleged violations set forth in the Notice of Violation.

The individual signing the enclosed Agreed Order should be a designated manager or in the absence of a manager, a member, of the limited liability corporation. The timely entry into an Agreed Order, which saves you and IDEM time and resources, may lead to a reduction in the civil penalty.

IDEM is not required to extend the offer of entry into an Agreed Order for more than sixty days. You may enter into an Agreed Order without admitting that the violation occurred. If an

Agreed Order is not entered into, IDEM may proceed to issue a unilateral notice and order requiring compliance with the environmental laws, rules, and/or permits, including payment of a civil penalty. Please contact me at (317) 233-1136 or e-mail [dzier@idem.IN.gov](mailto:dzier@idem.IN.gov), if you have any questions or if you wish to request a settlement conference.

Sincerely,



David Zier  
Compliance and Enforcement Manager  
Compliance and Enforcement  
Section 2  
Office of Air Quality

Enclosures

cc: Mark Siever, QA Manager  
Rochelle Marceillars, US EPA Region 5  
David Zier, Compliance and Enforcement Branch, OAQ



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## NOTICE OF VIOLATION

Via Certified Mail No.: 7004 1160 0004 6517 9887

Via Certified Mail No.: 7004 1160 0004 6517 9894

To: Ryan Drook, President & CEO  
Central Indiana Ethanol, LLC  
2955 West Delphi Pike  
Marion, Indiana 46952

To: Steve Berry  
2955 Delphi Pike  
Marion, Indiana 46952

Case No. 2016-23655-A

Based on an investigation on December 18, 2015, the Indiana Department of Environmental Management ("IDEM") has reason to believe that Central Indiana Ethanol, LLC ("Respondent") has violated environmental permit 053-32070-00062, condition E.3. The violations are based on the following:

1. Respondent owns and/or operates Central Indiana Ethanol, LCC with Plant I.D. No. 053-00062 located at 2955 West Delphi Pike in Marion, Grant County, Indiana (the "Site").
2. Pursuant to permit 053-32070-00062, condition E.3, Respondent shall perform (40 CFR 60.485a), record (40 CFR 60.486a), and provide semi-annual reports (40 CFR 60.487a) for Leak Detection and Repair per requirements of Subpart VVa, Standards of Performance for Equipment leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or modification Commenced after November 7, 2006.

Respondent has failed to perform (40 CFR 60.485a), record (40 CFR 60.486a), and provide semi-annual reports (40 CFR 60.487a) for Leak Detection and Repair per Subpart VVa CFR 60.485a, 60.486a, and 60.487a, from July 2013 to July 2015.

In accordance with IC 13-30-3-3, the Commissioner herein provides notice that violations may exist and offers an opportunity to enter into an Agreed Order providing for the actions required to correct the violations and, as necessary and appropriate, for the payment of a civil penalty. The Commissioner is not required to extend this offer for more than sixty (60) days.

As provided in IC 13-30-3-3, an alleged violator may enter into an Agreed Order without admitting that the violations occurred. IDEM encourages settlement by Agreed Order, thereby


resulting in quicker correction of the environmental violations and avoidance of extensive litigation. Timely settlement by Agreed Order may result in a reduced civil penalty. Also, settlement discussions will allow the opportunity to present any mitigating factors that may be relevant to the violations.

If an Agreed Order is not entered into within sixty (60) days of receipt of this Notice of Violation, the Commissioner may issue a Notice and Order under IC 13-30-3-4 containing the actions that must be taken to correct the violations and requiring the payment of an appropriate civil penalty. Pursuant to IC 13-30-4-1, the Commissioner may assess penalties of up to \$25,000 per day for each violation.

Please contact David Zier at (317) 233-1136 within fifteen (15) days after receipt of this Notice to discuss resolution of this matter.

For the Commissioner:

Date: 6/28/17

  
\_\_\_\_\_  
Phil Perry, Chief  
Compliance and Enforcement Branch  
Office of Air Quality

cc: Mark Siever, QA Manager  
Rochelle Marceillars, US EPA Region 5  
Marion County Health Department  
David Zier, Compliance and Enforcement Branch, OAQ

Steve Berry  
2955 Delphi Pike  
Marion, Indiana 46952

5. During an investigation conducted by a representative of IDEM, the following violations were found:
  - a. Pursuant to permit 053-32070-00062, condition E.3, Respondent shall perform (40 CFR 60.485a), record (40 CFR 60.486a), and provide semi-annual reports (40 CFR 60.487a) for Leak Detection and Repair per requirements of Subpart VVa, Standards of Performance for Equipment leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or modification Commenced after November 7, 2006.

Respondent has failed to perform (40 CFR 60.485a), record (40 CFR 60.486a), and provide semi-annual reports (40 CFR 60.487a) for Leak Detection and Repair per Subpart VVa CFR 60.485a, 60.486a, and 60.487a, from July 2013 to July 2015.
6. In recognition of the settlement reached, Respondent waives any right to administrative and judicial review of this Agreed Order.

## **II. ORDER**

1. This Agreed Order shall be effective ("Effective Date") when it is approved by Complainant or Complainant's delegate, and has been received by Respondents. This Agreed Order shall have no force or effect until the Effective Date.
2. Respondent shall comply with permit 053-36781-00062.
3. All submittals required by this Agreed Order, unless Respondent is notified otherwise in writing by IDEM, shall be sent to:

David Zier, Compliance and Enforcement Manager  
Compliance and Enforcement Branch – Mail Code 61-53  
Indiana Department of Environmental Management  
100 North Senate Avenue  
Indianapolis, IN 46204-2251
4. Respondent is assessed and agrees to pay a civil penalty of thirty three thousand seven hundred fifty dollars (\$33,750). Said penalty amount shall be due and payable to the Environmental Management Special Fund within thirty (30) days of the Effective Date; the 30<sup>th</sup> day being the "Due Date".
5. Civil and stipulated penalties are payable by check to the "Environmental Management Special Fund." Checks shall include the Case Number of this action and shall be mailed to:

IDEM Office of Legal Counsel  
IGCN, Rm N1307  
100 N Senate Ave  
Indianapolis, IN 46204

6. This Agreed Order shall apply to and be binding upon Respondent and /its successors and assigns. Respondent's signatories to this Agreed Order certify that they are fully authorized to execute this Agreed Order and legally bind the party they represents. No change in ownership, corporate, or partnership status of Respondents shall in any way alter their status or responsibilities under this Agreed Order.
7. In the event that the monies due to IDEM pursuant to this Agreed Order are not paid on or before their Due Date, Respondent shall pay interest on the unpaid balance at the rate established by IC 24-4.6-1. The interest shall be computed as having accrued from the Due Date until the date that Respondent pays any unpaid balance. Such interest shall be payable to the Environmental Management Special Fund, and shall be payable to IDEM in the manner specified in Paragraph 5, above.
8. In the event that any terms of this Agreed Order are found to be invalid, the remaining terms shall remain in full force and effect and shall be construed and enforced as if this Agreed Order did not contain the invalid terms.
9. Respondent shall provide a copy of this Agreed Order, if in force, to any subsequent owners or successors before ownership rights are transferred. Respondent shall ensure that all contractors, firms and other persons performing work under this Agreed Order comply with the terms of this Agreed Order.
10. This Agreed Order is not and shall not be interpreted to be a permit or a modification of an existing permit. This Agreed Order, and IDEM's review or approval of any submittal made by Respondent pursuant to this Agreed Order, shall not in any way relieve Respondent of their obligation to comply with the requirements of their applicable permit or any applicable Federal or State law or regulation.
11. Complainant does not, by its approval of this Agreed Order, warrant or aver in any manner that Respondent's compliance with any aspect of this Agreed Order will result in compliance with the provisions of any permit, order, or any applicable Federal or State law or regulation. Additionally, IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of Respondent's efforts to comply with this Agreed Order.
12. Nothing in this Agreed Order shall prevent or limit IDEM's rights to obtain penalties or injunctive relief under any applicable Federal or State law or regulation, except that IDEM may not, and hereby waives its right to, seek additional civil penalties for the same violations specified in the NOV.
13. Nothing in this Agreed Order shall prevent IDEM or anyone acting on its behalf from communicating with the EPA or any other agency or entity about any matters relating to this enforcement action. IDEM or anyone acting on its behalf shall not be held liable for


any costs or penalties Respondent may incur as a result of such communications with the EPA or any other agency or entity.

14. This Agreed Order shall remain in effect until Respondent has complied with all terms and conditions of this Agreed Order until IDEM issues a Resolution of Case letter to Respondent.

**REMAINDER OF PAGE LEFT BLANK INTENTIONALLY**



TECHNICAL RECOMMENDATION:  
Department of Environmental Management

By:   
Lynne Sullivan, Chief  
Compliance and Enforcement  
Section 2  
Office of Air Quality

Date: 5/23/17

RESPONDENT:  
Central Indiana Ethanol, LLC

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

COUNSEL FOR RESPONDENT:

By: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL  
MANAGEMENT THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20 \_\_\_\_.

For the Commissioner:

By: \_\_\_\_\_  
Keith Baugues, Assistant Commissioner  
Office of Air Quality  
Indiana Department of Environmental  
Management

